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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Austria, Belgium*, Bulgaria, Canada, Chile, Cyprus, Czech Republic, Denmark, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Luxembourg*, Netherlands (European Union), Portugal*, Romania*, Spain, Sweden*, United Kingdom of Great Britain and Northern Ireland: draft resolution

1997/... Human rights in Zaire

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that Zaire is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and Peoples' Rights, as well as to the International Convention on the Elimination of All Forms of Racial Discrimination,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Commission on Human Rights resolution 1996/77 of 23 April 1996, and noting Security Council resolution 1097 (1997) of 18 February 1997,

Recognizing the burden which the population of eastern Zaire has sustained in granting asylum to the Rwandan and Burundian refugees since 1994 and the accompanying environmental degradation which followed this massive influx of refugees,

1. Welcomes

(a) The reports of the Special Rapporteur on the situation of human rights in Zaire (E/CN.4/1997/6 and Add.1-2);

(b) That the Government of Zaire agreed to a visit by the Special Rapporteur in the discharge of his mandate, while regretting that he was not able to visit certain areas and that the Government did not reply to his requests for information;

(c) The fact that the Government of Zaire agreed to the establishment of an office of the United Nations High Commissioner for Human Rights in Kinshasa, entrusted with the task of monitoring the situation of human rights and giving advice to the governmental authorities and non-governmental organizations;

(d) The preparations for elections, including the establishment of the National Electoral Commission and of the Standing Interministerial Commission to ensure contacts between the Government and the National Electoral Commission, and welcomes the decision to hold a constitutional referendum;

2. Expresses its concern

(a) At the lack of improvement in the human rights situation and at the continuing violations of human rights and fundamental freedoms in Zaire, particularly cases of summary execution, torture and cruel, inhuman or degrading treatment, violence against women, arbitrary detention, inhuman and degrading prison conditions, particularly for children and especially in the detention centres administered by the army and security services, and denial of the right to a fair trial, as well as intimidations and reprisals, in particular against political figures;

(b) At the situation of human rights defenders in Zaire;

(c) At the armed conflict in eastern Zaire, and at the high number of civilian casualties, as well as at the widespread lack of respect for human rights and international humanitarian law by all parties;

(d) That the army and the security forces continue to use force against civilians and to enjoy great impunity, which remains one of the principal causes of human rights violations in Zaire;

(e) At all discriminatory measures based on ethnic grounds;

(f) At the occurrences of arbitrary deprivation of nationality;

(g) At the delay in the process, aggravated by the war in eastern Zaire, of democratic transition and in the organizing of free and multi-party elections, as foreseen in the Constitutional Act of Transition;

(h) At the lack of follow-up to previous recommendations by the Special Rapporteur;

3. Calls upon the Government of Zaire

(a) To put an end to the impunity of persons responsible for human rights violations, including members of the army and security forces;

(b) To intensify cooperation with the Special Rapporteur and the office of the United Nations High Commissioner for Human Rights in Kinshasa and to indicate how the Government of Zaire has taken the Special Rapporteur's recommendations into account;

(c) To ensure that all decisions concerning the acquisition or deprivation of nationality are taken in accordance with principles and norms of international law;

(d) To provide the National Commission for the Promotion and Protection of Human Rights with the necessary means to function effectively and independently, and to seek the assistance of the office of the United Nations High Commissioner for Human Rights in Kinshasa in this respect;

(e) To reinforce the judiciary and its independence;

(f) And all other parties to the conflict in eastern Zaire to approve unconditionally the five-point peace plan for eastern Zaire endorsed by the Security Council and the Organization of African Unity, and to negotiate an immediate cessation of hostilities and a peaceful settlement; to withdraw all external forces, including mercenaries; to facilitate access to the area for humanitarian organizations and to seek a political solution to the problems,

respecting the territorial integrity of Zaire, the human rights of everyone, including refugees and displaced persons, and the process of democratization in Zaire, including the holding of free and fair elections;

(g) To make further preparations for the holding of free and fair elections as foreseen in the basic agreement on the transition, drawing on assistance from the international community, and to ensure full respect for the freedom of opinion and expression, including for all mass media, as well as freedom of association and assembly throughout the territory of Zaire;

(h) To take into account the importance of civil society in implementing and strengthening the democratization process;

(i) To cooperate with respect to the strengthening of the office of the High Commissioner for Human Rights, including an increase in the number of observers;

4. Calls upon the Government of Zaire and all other parties

(a) To accept with immediate effect investigations by the joint mission appointed by the Commission into allegations of massacres and other issues affecting human rights and to ensure the security of the members of the joint mission and their free access to all areas they wish to visit;

(b) To accept the monitoring by international observers of respect for human rights and humanitarian law and to ensure free access and security for such observers;

5. Calls upon the international community to cooperate in future efforts with respect to the reconstruction and rehabilitation of the economic and social infrastructure in eastern Zaire;

6. Decides

(a) To request the Special Rapporteurs on the situation of human rights in Zaire and on extrajudicial, summary or arbitrary executions and a member of the Working group on Enforced or Involuntary Disappearances to carry out a joint mission to investigate allegations of massacres and other issues affecting human rights which arise from the situation prevailing in eastern Zaire since September 1996 and to report to the General Assembly by 30 June 1997 and to the Commission at its fifty-fourth session;

(b) Requests the High Commissioner for Human Rights to facilitate the activities of the joint mission, in particular with respect to its funding, in order to accelerate its work and to provide appropriate technical expertise to enable the mission to fulfil its mandate;

(c) To extend the mandate of the Special Rapporteur for a further year, and requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-second session and to report to the Commission at its fifty-fourth session, and also requests the Special Rapporteur to continue to apply a gender perspective to a greater extent in drawing up his reports, including in the collection of information and recommendations;

(d) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

(e) To continue the examination of the situation of human rights in Zaire at its fifty-fourth session under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world".